

BOARD OF APPEALS CASE NO. 5086

APPLICANTS: Horace & Marina Pearce

REQUEST: Interpretation to determine the definition of a kennel; 2630 Harkins Road, White Hall

* BEFORE THE

* ZONING HEARING EXAMINER

* OF HARFORD COUNTY

* Hearing Advertised

* Aegis: 9/13/00 & 9/20/00

* Record: 9/15/00 & 9/22/00

* HEARING DATE: November 20, 2000

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Horace and Marina Pearce, are seeking an interpretation pursuant to Section 267-9D of the Harford County Code, to determine if the definition of a kennel, pursuant to Section 267-4 of the Harford County Code, applies to their use of their property.

The subject parcel is located at 2630 Harkins Road, White Hall, Maryland 21161 and is more particularly identified on Tax Map 8, Grid 1C, Parcel 135, Lot 5. The property consists of 5.886± acres, is zoned AG/Agricultural and is entirely within the Fourth Election District.

Mr. Horace Pearce appeared and testified that he and his wife own the subject parcel. At the time they purchased the property they had five (5) dogs that they kept for their personal use. At the time of his testimony, the witness indicated that he and his wife had seven (7) dogs. Apparently some of the dogs kept by the Applicants at the time they purchased their home are gone and other dogs have either replaced them or been added. All of the dogs are male and are more than 6 months old. Mr. Pearce indicated that he does not board, train or sell any of the dogs kept on his property.

CONCLUSION:

The Department of Planning and Zoning takes a literal approach to the language of the Code and has determined that the Applicants are maintaining a kennel pursuant to Section 267-4 of the Harford County Code. Section 267-4 provides as follows:

“KENNEL - - Any establishment, not part of an Agricultural use, in which six (6) or more domestic animals, such as cats, dogs or other pets, more than six (6) months old are kept, groomed, bred, boarded, trained or sold.”

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The Applicant's position is that in order to fulfill the requirements of the Code definition of "kennel" there must be some commercial element in the keeping of six or more dogs. The Hearing Examiner disagrees with the Applicant and determines that the Code section defining "Kennel" does not include a commercial element and the mere keeping of six or more adult dogs, even as personal pets, satisfies the Code definition of "Kennel". This conclusion is consistent with prior decisions rendered by the Board of Appeals in examining this definition. In Board of Appeals Case No. 4248, the Applicant therein kept eight (8) dogs as personal pets. That use was determined to be a kennel pursuant to Code section 267-4.

Since the Applicant admittedly keeps seven (7) adult male dogs, the Hearing Examiner concludes that his use constitutes a kennel, pursuant to Section 267-4 of the Harford County Code.

Date DECEMBER 5, 2000

William F. Casey
Zoning Hearing Examiner